

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed May 15, 2008. At the time of the Office Action, Claims 2-13 were pending in this Application. Claims 2-13 were rejected. Claim 1 was previously cancelled without prejudice or disclaimer. Claim 14 and 15 have been added. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 2-13 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,029,151 issued to Nikander (“Nikander”) in view of U.S. Patent 6,486,862 issued to Jacobsen (“Jacobsen”). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int’l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The Examiner stated that *Nikander* discloses the invention substantially as claimed. Applicant respectfully disagrees. According to the present independent claims 13-15 there exists no connection between the Internet compatible communication terminal device and the Internet. The interface of the Internet access network is used to provide such a connection. Upon a request by the Internet compatible communication terminal device, a communication relationship is established between the interface and the Internet compatible communication terminal device. Then, Internet access is enabled after effecting a cash-free payment from the communication terminal device to the interface.

Nikander discloses a different scenario in which an Internet connection between a device and the internet is already established by means of telephone network 108 and Internet service provider 105. *Nikander*, col. 4, lines 14-26. The user is thus already enabled to have access to the Internet. Contrary to this scenario, initially there exists no connection between the Internet compatible communication terminal device and the Internet. Independent claim 1 reflects this situation by the limitation that upon an Internet access request a relationship between the interface and the Internet compatible communication terminal device is established. Thus, no relationship existed between these devices before the request for access has been transmitted by the Internet compatible communication terminal device. Claims 14 and 15 expressly include this limitation. This limitation is based on the originally filed specification, for example, on page 1, first full paragraph explaining the different possibilities of accessing the Internet. Thus, no new subject matter has been introduced.

Nikander discloses that within an existing Internet connection, purchases can be made using credit card information. However, this scenario requires the Internet compatible communication terminal device to be already connected to the Internet. *Jacobsen* does not provide any additional information to close the gap between *Nikander* and the subject matter of the present independent claims. In fact, the Examiner cited certain steps disclosed by *Jacobsen*, such as displaying information in a mobile device, which have not been claimed in the independent claims.

In summary, Applicant believes that all pending independent claims are allowable with respect to the cited prior art. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively.

Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants authorize the Commissioner to charge \$490.00 for the Petition for 2-Month Extension to Deposit Account No. 50-2148 of Baker Botts L.L.P. Applicants believe there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Respectfully submitted,
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Attorney for Applicants

A handwritten signature in black ink, appearing to read 'A. Grubert', with a stylized, flowing script.

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Date: October 15, 2008

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